

Message Text

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41

ACTION L-03

INFO OCT-01 IO-13 ADP-00 AF-10 ARA-16 EA-11 EUR-25 NEA-10

RSC-01 COA-02 EB-11 OIC-04 CIAE-00 DODE-00 PM-07 H-03

INR-10 NSAE-00 NSC-10 PA-03 PRS-01 SS-15 USIA-15

ACDA-19 AGR-20 AEC-11 CG-00 COME-00 DOTE-00 FMC-04

INT-08 JUSE-00 NSF-04 OMB-01 SCI-06 CEQ-02 EPA-04

RSR-01 /251 W

----- 074540

R 131607Z AUG 73

FM USMISSION GENEVA

TO SECSTATE WASHDC 1146

INFO USMISSION USUN NY

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E.O. 11652

TAGS: PBOR, UN

SUBJ: LOS: SEABED COMMITTEE: WORKING GROUP 2 OF

SUBCOMMITTEE III-MARINE POLLUTION- AUGUST 8

1. AREA OF COASTAL STATE ENFORCEMENT (PART B, WG 2/ PAPER 5.5/ REV. 1 AND ADD.1, AND GENERAL ENFORCEMENT (PART C), WERE OPENED FOR DISCUSSION.

2. JAPAN CIRCULATED ARTICLE ON COASTAL STATE ENFORCEMENT OF INTERNATIONAL STANDARDS IN AREA (BREADTH UNSPECIFIED) BEYOND THE TERRITORIAL SEA. TEXT FOLLOWS:

"1. A COASTAL STATE PARTY TO THIS CONVENTION MAY INVESTIGATE AND PROSECUTE NATURAL OR JURIDICAL PERSONS UNDER THE JURISDICTION OF OTHER CONTRACTING STATES WHEN SUCH PERSONS HAVE DISCHARGED OR DUMPED ANY HARMFUL SUBSTANCES IN ONTRAVENTION OF GENERALLY ACCEPTED INTERNATIONAL RULES AND STANDARDS PROVIDED THAT:

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(A) THERE ARE SUFFICIENT EVIDENCES REQUIRED BY THE LAW OF THE

COASTAL STATE ENACTED IN CONFORMITY WITH GENERALLY ACCEPTED INTERNATIONAL RULES AND STANDARDS, AND,

(B) THE DISCHARGE OR DUMPING HAS OCCURRED IN AREAS ADJACENT TO ITS TERRITORIAL SEA, THE MAXIMUM LIMIT OF WHICH AREAS SHALL BE -----NAUTICAL MILES FROM ITS COAST.

"2. IN TAKING ACTIONS REFERRED TO IN PARAGRAPH 1, THE COASTAL STATE SHALL ENSURE THAT THE MARITIME ACTIVITIES OF THE NATURAL OF JURIDICAL PERSONS REFERRED TO IN THE SAME PARAGRAPH ARE NOT UNDULY INTERFERED WITH.

"3. THE COASTAL STATE SHALL INFORM THE OTHER CONTRACTING STATES REFERRED TO IN PARA 1 AS WELL AS COMPETENT INTERNATIONAL ORGANIZATIONS OF THE RESULTS OF SUCH INVESTIGATION AND PROSECUTION".

3. CANADA SPOKE IN FAVOR OF COASTAL STATE ENFORCEMENT OF INTERNATIONAL AND NATIONAL STANDARDS IN WATERS UNDER ITS JURISDICTION BEYOND TERRITORIAL SEA. SUPPORTED SHARED JURISDICTION BETWEEN FLAG AND COASTAL STATES. SPOKE OF DEFICIENCIES OF FLAG STATE JURISDICTION.

4. FRANCE REFERRED TO THEIR ARTICLES ON COASTAL STATE JURISDICTION AND NOTED LIMITATIONS ON COASTAL STATE RIGHTS TO ENFORCE.

5. US REP STRESSED NEED TO BALANCE ENVIRONMENTAL AND NAVIGATIONAL AND ECONOMIC INTERESTS. US REP EXPRESSED HOPE THAT US ARTICLES ACHIEVE THAT BALANCE AND HE CITED PERTINENT ARTICLES. ENFORCEMENT IS A COMPLEX PROBLEM AND CANNOT BE DEALT WITH IN ONE ARTICLE. EXPLAINED DIFFICULTIES WITH GENERAL COASTAL STATE ENFORCEMENT IN A ZONE:

(I) EXPENSIVE TO STOP SHIPS AT SEA WHEN ALTERNATIVES AVAILABLE.

(II) DOES NOT MAXIMIZE PARTICIPATION OF INTERESTED STATES IN DECISION MAKING.

(III) SOURCE OF POTENTIAL CONFLICT.

6. USSR EXPRESSED MISGIVINGS ABOUT FORMULATING ARTICLES CONCERN-
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ING INVESTIGATIONS AND PROSECUTIONS OF VESSELS OF OTHER STATES. UNCLEAR ABOUT RELATIONSHIP SUCH ARTICLES TO WORKING IMCO. SUCH A DETAILED SUBJECT SHOULD BE DEALT WITH IN MORE TECHNICAL FORUM (IMCO).

7. NORWAY REITERATED PHILOSOPHY OF ENFORCEMENT AND INDICATED PRECISE RULES MUST BE DRAWN FOR COASTAL STATE RIGHTS. EXPRESSED SYMPATHY WITH FRENCH AND JAPANESE APPROACH.

8. UK SAID FLAG STATE ENFORCEMENT MOST EFFICIENT. FAVOR OBLIGATION OF FLAG STATE TO TAKE MEASURES. SUPPORTED U.S. ARTICLE XIV. DO NOT SUPPORT JAPANESE OR FRENCH APPROACH BUT SYMPATHETIC TO U.S. PORT STATE PROPOSAL.

9. INFORMAL DRAFTING GROUP CONVENED TO DRAFT ALTERNATIVE TEXTS.

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